

MOM INVITES PUBLIC'S VIEWS FOR EMPLOYMENT ACT REVIEW

AIM

1. The Ministry of Manpower (MOM) invites members of the public to give feedback on areas being considered in the review of the Employment Act (EA).

INTRODUCTION

2. The EA is Singapore's main employment law. It provides for the basic terms and working conditions for employees, while balancing employers' need to stay competitive. Together with our tripartite partners, we regularly review the EA to keep pace with the changing labour force profile and employment landscape. The EA was last reviewed in 2012, including the salary thresholds, and the latest amendments came into effect in 2015.

3. Since then, the tripartite partners – MOM, the National Trades Union Congress (NTUC) and Singapore National Employers Federation (SNEF) – have had further discussions about possible areas for future review. We would now like to seek public feedback on the broad areas of review which have been identified and set out below to ensure the EA remains relevant, with a focus on enhancing its coverage.

AREAS OF REVIEW

A. Core provisions

4. The EA stipulates core provisions such as public holiday and sick leave entitlements, timely payment of salary and allowable deductions, and redress for wrongful dismissal. Today, these core provisions cover all employees¹ except managers and executives² earning more than \$4,500³ per month. Employees not covered by the EA already have access to many of these provisions. We would like to invite views on whether such core provisions should be extended to all employees.

¹ Except domestic workers, public servants and seafarers.

² Professionals such as doctors and lawyers who require professional qualifications are considered as managers and executives for purposes of EA coverage.

³ All references to salary refer to basic monthly salary which excludes payment of overtime, bonus, annual wage supplement, productivity incentive payment, reimbursement for special expenses and all allowances.

B. Additional protection for more vulnerable employees

5. Beyond the core provisions enjoyed by all employees covered under the EA, additional protection for more vulnerable employees is currently stated in Part IV of the EA and relate to time-based provisions such as annual leave, hours of work, overtime pay and rest day. Today, these cover non-workmen⁴ earning up to \$2,500 per month, and workmen⁵ earning up to \$4,500 per month. We would like to invite views on the appropriate level for these salary thresholds.

C. Enhance dispute resolution services

6. Currently, statutory and contractual salary-related disputes are heard by the Employment Claims Tribunals (ECT), while wrongful dismissal claims are heard by the Minister for Manpower. Given that dismissal-related claims are usually coupled with salary issues, the affected employee has to go to two different parties today for their issues to be resolved, rather than just one party. We are reviewing this process to make it more streamlined for employees and employers, and would like to invite views on how we can do so.

7. More details about EA coverage are set out in the Annex. In view of the review of the salary thresholds, we welcome views on how the provisions can be enhanced to provide more flexibility, for employers and employees.

CONSULTATION DETAILS

8. The consultation exercise will be open from **18 Jan 2018 to 15 Feb 2018**.

9. We seek your support to ensure that the consultation exercise is productive and focused, and would like to request that respondents:

- a. Identify yourself and the organisation you represent (if applicable), as that would assist in our understanding of the impact of the proposed changes on different stakeholder groups;
- b. Make your comments clear and concise;
- c. Identify the specific proposal you are commenting on, and provide your comments on how the proposals/features can be improved or made clearer; and
- d. As far as possible, explain your points with illustrations and examples.

⁴ In the context of the EA, “non-workmen” refers to rank-and-file employees in “white collar” occupations e.g. clerks, receptionists, retail sales assistants.

⁵ In the EA, “workmen” refers to rank-and-file employees engaged in manual work e.g. cleaner, construction worker, labourer, machine operator and assembler, train/bus/lorry/van driver.

10. Please submit your feedback through this email address: mom_consultations@mom.gov.sg with the subject heading "Consultation on EA review".

11. Thank you.

KEY CLAUSES⁶ IN EMPLOYMENT ACT ON CORE PROVISIONS AND ADDITIONAL PROTECTION

Core Provisions

Part II [Contracts of Service]

| | Key Excerpts of Provisions |
|---------------------------------|--|
| Section 14 (S14) [Dismissal] | <ul style="list-style-type: none"> • An employer may after due inquiry dismiss without notice an employee on the grounds of misconduct. • Where a relevant employee[^] considers that he has been dismissed without just cause or excuse by his employer, he may appeal to the Minister for Manpower to be reinstated in his former employment. <p>[^]For purposes of S14, a relevant employee refers to (a) a manager or executive who is dismissed with notice or with salary in lieu of notice who has served the employer for at least 12 months; (b) a manager or executive who is dismissed without notice and without salary in lieu of such notice; and (c) an employee who is not a manager or executive.</p> |

Part III [Payment of Salary]

| | Key Excerpts of Provisions |
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| S21 [Time of payment] | <ul style="list-style-type: none"> • Employer must pay salary at least once a month and within 7 days after end of salary period • Additional payments for overtime work shall be paid within 14 days after end of salary period |
| S27 [Authorised deductions] | <ul style="list-style-type: none"> • Employee salary can be deducted for reasons such as (i) absence from work, (ii) damage to or loss of goods or money, (iii) cost of meals, (iv) accommodation, amenities & services, (v) recovering advances, loans or overpaid salary. |
| S32 [Deductions not to exceed prescribed limit] | <ul style="list-style-type: none"> • Employer cannot deduct more than 50% of total salary payable in any one salary period[^]. However, when contract is terminated or upon completion of contract of service, deduction from last salary payment may exceed 50% for authorised deductions. |

⁶ Please refer to the Employment Act (Chapter 91) for full provisions

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| | <p>^Deductions made for the following do not count towards the 50%:</p> <p>(i) absence from work, (ii) recovery of advances, loans or overpaid salary, and (iii) payments with employee's consent to registered cooperative societies for subscriptions, entrance fees, loan instalments, interest and other dues payable by the employee to such societies.</p> |
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Part IX [Maternity Protection and Benefits and Childcare Leave for Parent]

| | Key Excerpts of Provisions |
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| S76 [Length of benefit period] | <ul style="list-style-type: none"> Female employees are entitled to 12 weeks of maternity leave The first 8 weeks of maternity leave are paid. The last 4 weeks of maternity leave are unpaid |
| S81 [Dismissal during absence prohibited] | <ul style="list-style-type: none"> Offence for an employer to dismiss an employee while she is on maternity leave |
| S84 & S84A [Right to Benefit] | <ul style="list-style-type: none"> For employee who has served an employer for at least 3 months, her right to the maternity benefit will not be affected by notice of dismissal given (i) without sufficient cause, or (ii) on grounds of redundancy or by reason of reorganization of employer's profession, business, trade or work. |
| S87A [Childcare leave for parent] | <ul style="list-style-type: none"> For an employee who has served an employer for at least 3 months, and has any child below the age of 7, the employee is entitled to 2 days of childcare leave a year. |

Part X [Holiday and Sick Leave Entitlements]

S88 [Holidays]

| | Key Excerpts of Provisions |
|---------------------------|--|
| S88 (1) Entitlement | <ul style="list-style-type: none"> Every employee shall be entitled to 11* paid public holidays in a year Employer and employee can mutually agree to substitute the paid public holiday with another working day. |
| S88 (4) Work on a holiday | <ul style="list-style-type: none"> By default, if required by employer to work on any public holiday, employee shall be paid an extra day's salary at the basic rate of pay. |

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| S88 (4A) Managerial or executive position | <ul style="list-style-type: none"> • If employee is in a managerial or executive position and is required to work on a public holiday, he shall be paid for that day and employer may grant him time off in lieu for working on that public holiday. The time off should consist of a mutually agreed number of hours. |
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*The 11 public holidays are stated in the Holidays Act

S89 [Sick Leave]

| | Key Excerpts of Provisions |
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| S89(1) Entitlement to paid sick leave | <ul style="list-style-type: none"> • Any employee who has served an employer for at least 3 months is entitled to paid sick leave (max 14 days) and hospitalisation leave (max 60 days). • Sick leave should be certified by a company-approved doctor or government doctor. • Employer must bear cost of medical consultation fee. |

Additional protection for more vulnerable employees

Part IV [Rest Days, Hours of Work and Other Conditions of Service]

S37 [Work on Rest Day]

| If work is done... | Payment for working up to half the normal daily working hours | Payment for working more than half the normal daily working hours | Payment for working beyond the normal daily working hours |
|---------------------------|---|---|---|
| (2) At employee's request | Half day's salary | 1 day's salary | 1 day's salary + overtime pay |
| (3) At employer's request | 1 day's salary | 2 days' salary | 2 days' salary + overtime pay |

S38 [Hours of Work]

| | Provisions |
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| (1) Limit of hours | <ul style="list-style-type: none"> Employee is generally not required to work more than 6 consecutive hours without a break Employee is generally not required to work more than 8 hours a day or more than 44 hours a week |
| (4) Payment for extra work | <ul style="list-style-type: none"> Employee must be paid at least 1.5 times the hourly basic rate of pay for overtime work |
| (5) Limit of overtime | <ul style="list-style-type: none"> Employee not allowed to work more than 72 overtime hours in a month |
| (6) Calculation of overtime pay | <ul style="list-style-type: none"> The overtime rate payable for non-workmen is capped at the salary level of \$2,250, or an hourly rate of \$11.80 |
| (8) Daily maximum | <ul style="list-style-type: none"> Employee not allowed to work more than 12 hours a day |

S43 [Annual Leave]

| | Provisions |
|------------------------------------|--|
| S43(1) Entitlement to annual leave | <ul style="list-style-type: none"> Any employee who has served an employer for at least 3 months is entitled to 7 days of paid annual leave for first 12 months of service Additional one day for every subsequent 12 months (total cannot exceed 14 days) |

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| S43(6) When leave to be taken | <ul style="list-style-type: none">• Such leave can be forfeited if not taken within 12 months after end of every 12 months of service |
| S43(7) Leave payment | <ul style="list-style-type: none">• If dismissed (other than for misconduct), employee can encash unused leave |